



# SAN BRUNO CITY COUNCIL

## REGULAR MEETING

### MINUTES

**September 14, 2004**

**This is to certify that:**

The San Bruno City Council met in regular session on September 14, 2004, at the San Bruno Senior Center 1555 Crystal Springs Road San Bruno. Meeting was called to order at 7:00 P.M.

Mayor Franzella thanked the **San Bruno Garden Club** for providing the beautiful floral arrangement.

**1. ROLL CALL:** Presiding was Mayor Franzella with Vice Mayor O'Connell, Councilmembers, Ruane, Pallas and Ibarra in attendance. Recording by City Clerk Simon. Mayor Franzella introduced Jerry Ramiza, Interim City Attorney.

**PLEDGE OF ALLEGIANCE:** Led by Fire Chief Voreyer.

**ANNOUNCEMENTS:**

**San Bruno Redevelopment Agency** meeting follows tonight's Council meeting.

**PRESENTATIONS:**

- a. **Proclamation** declaring the week of September 20<sup>th</sup> to 26<sup>th</sup> 2004, as "**National Pollution Prevention Week**" in San Bruno. Mayor Franzella presented to Phil Hanes-Smith, Public Works Analyst, who described some of the activities planned for the month.
- b. The San Mateo County **Vehicle Theft Task Force** presented certificates of appreciation to San Bruno Police Officers Blundell and Fogerty. The California Highway Patrol recognized the officers for their part in the recovery of 20 stolen vehicles. Mayor Franzella thanked Officer Blundell, who was in attendance, for such a great job. Police Chief Violet said 9 of the 10 suspects have already been convicted.
- c. Art Jensen General Manager, **Bay Area Water Supply & Conservation Agency (BAWSCA)**, updated the City Council on BAWSCA activities and emerging issues. He acknowledged that Vice Mayor O'Connell serves on the Board of Directors of BAWSCA and has contributed during the many meetings that have taken place during the first year of operation. The current proposal before the PUC to drain and restore Hetch Hetchy reservoir to its original state is extremely important and while it is a popular idea, it would have a great impact on our water supply.

**Councilmember Pallas** asked what plans BAWSCA has made in case of a drought or emergency? Do we encourage Cities like San Bruno to produce well water?

Mr. Jensen replied that they are looking for supplemental water supplies and BAWSCA has the ability to contract elsewhere for water. Yes, BAWSCA encourages all members of the Agency to provide other means of water supply including wells.

**Councilmember Pallas** asked if BAWSCA is looking into reports that chloramine in the water is dangerous and have they made studies? Mr. Jensen said as water people we are not qualified to deal with public health issues and the Agency has encouraged Public Health staff to look into these concerns.

**Skip Henderson**, Lexington Way, said the water is a lot less tasty now since chloramine has been added to the water supply. Is there a filter available for San Bruno residents to use? Very concerned about the taste of the water.

**2. REVIEW OF AGENDA:** No changes were made.

**3. APPROVAL OF MINUTES:** The regular Council meeting minutes of August 24, 2004, were approved as submitted.

**4. CONSENT CALENDAR:** All items listed are considered routine or implement an earlier Council action and may be enacted by one motion; there will be no separate discussion unless requested by Councilmember, citizen or staff.

**a. Approve: Payroll** of August 27, 2004.

**b. Approve: Accounts Payable** of August 16, 23, 30, 2004. (Council Packets only, copy is available for review at the City Clerk's office)

**c. Accept:** Donation from SummerHill Homes in the amount of \$5,000 to fund San Bruno's 2004-05 membership in Peninsula Policy Partnership (P3).

**d. Accept:** Global Language Materials Grant Award #40-6200 in the amount of \$6,000 in Federal Library Services and Technology Act (LSTA) funds awarded by the California State Library.

**Mayor Franzella** pulled item 4.c. for discussion. **M/S O'Connell/Ibarra** to approve the remainder and passed by unanimous vote.

4.c. **Mayor Franzella** wanted to publicly acknowledge the donation from SummerHill Homes for the cost of membership in P3, which is an important San Mateo County Organization. **M/S Franzella/O'Connell** to approve item 4.c and passed with unanimous vote.

**5. PUBLIC HEARINGS:** (Notices have been published, posted, and mailed.) **None**

**6. UNFINISHED BUSINESS:**

- a.** Receive report and provide direction to staff regarding the City's policy for **sale and use of Safe and Sane fireworks**. Councilmember Ruane requested reconsideration of the Council's vote during the Special Meeting of August 11, 2004.

City Manager Jackson provided the staff reports and offered options for the City Council to use in addressing this important issue.

**Councilmember Ibarra** asked if any organization or individual would be allowed to pay for the cost of an election? City Manager Jackson replied that the City would be billed and responsible for the cost but anyone could contribute to the City; however, they could not be held responsible.

**Mayor Franzella** asked if any members of the public wished to comment on this item?

**Skip Henderson**, Lexington Way, requested the Council develop an ordinance and put the matter on the ballot. The people of San Bruno will make a good decision and the issue will never be settled unless they have the opportunity to vote.

**Scott Buschman**, Claremont Drive, said with the recent budget cuts it would be wrong to spend the large cost of a special election. We need to get the laws on the books to give the police more teeth to rid the illegal fireworks. He hopes there will be more of a discussion rather than just ban or not to ban.

**Jennifer Blanco**, Fleetwood Drive and representing Parkside PTA, said she would like to compliment City Manager Connie Jackson for such a thorough and fair staff report. She provided the City Clerk with a detailed list of "Alternatives" (copy in Clerk's office) to use next July 4th. If this does not work, put the issue to the voters on the November 2005 ballot since it would cost next to nothing.

**Dick Dunbar**, Highland Drive, representing the American Legion said please put this issue on the November 2005 ballot and allow sale of Safe and Sane next July 4<sup>th</sup>. We have not stressed to the people in the past that they can't block streets. Give us a chance to make this work.

**David Morgan**, Olive Court, this is an important issue to the people of San Bruno. We are not in a big hurry and no reason not to wait until the next General Election in order to save cost. This is a hotly contested issue and the people should be allowed to make this decision, not the City Council.

**Kate Clementi**, Clark Avenue, upset because Councilmembers are not listening to the Fire and Police Chiefs. Do not need an election because it is a safety issue. Commends the Mayor and Councilmember Ruane for their efforts.

**Joe Yanke**, Elm Avenue, said the Councilmembers were elected to make decisions. Decide the issue and if we don't like what you did we can vote you out. The expense of an election is too much.

**Deborah Kissiker**, Evergreen Drive, does not believe the Police Department is unable to handle the illegal fireworks if given some extra help. Our streets will not be safe if funds are not available to keep kids busy and off the streets. Hopes Council will keep Safe and Sane fireworks.

**Mike Kaiser**, 5<sup>th</sup> Avenue, he is tired of everyone telling him he should help the police and fire departments do their job. This is the only City that volunteers get penalized for helping the kids stay out of trouble.

**Jim Kelly**, Oak Avenue, said in the near future this City would ban fireworks of all kinds due to the increased risk. Council should work with citizens to offer alternative fund raising programs for non-profits. Fireworks is a very visible way of celebrating the most important holiday we have and citizens will need to have other ways to celebrate.

**Tom Lara**, Parkview Drive, said there are many kids and families who cannot afford to participate in sports without help from the non-profits. We must keep kids active and off the street and since the City does not have the money we must work to raise the money needed. Without Safe and Sane fireworks there will be more illegal ones because people will buy and use if no other types are available.

**Dennis Revel**, spokesperson for the fireworks wholesalers, complimented the City Manager on the fairness and complete staff report presented tonight. More Cities are moving toward allowing the Safe and Sane fireworks not banning them. He encouraged people to report the illegal fireworks by publishing the non-business phone number of the police. Police and Fire departments cannot control illegal fireworks on their own and requested the Council give the wholesalers an opportunity to help.

**Rob O'Neil**, of Glenview Drive, enjoys the use of Safe and Sane fireworks. Can raise more money in one week as opposed to washing cars for six weeks to help the kids.

**Councilmember Pallas** said if we don't have Safe and Sane fireworks we will have more illegal ones just like Oakland. He presented a two-minute film from Channel 2 TV showing Oakland's problems after they banned all fireworks from their City. We should pass an ordinance if persons have illegal fireworks in their possession they should be fined \$500 to \$1000.

**Mayor Franzella** asked staff to bring back to the Council methods to deal with the illegal fireworks in the future. The issue tonight is what to do with the Safe and Sane fireworks currently allowed in the City.

**Councilmember Pallas** said we should put the decision to the vote of the people just like we did the height limit years ago.

**Councilmember Ibarra** said he was not comfortable with the decision reached at the special meeting of August 11, 2004. If pressed for a decision from the Council he is prepared not to ban Safe and Sane fireworks at this time. For all these years Safe and Sane fireworks has not been a large issue and this year it got out of hand. He is not in favor of the City paying \$75,000 for a special election. We should make a concerted effort to get the message out that July 2005 will be a “last chance” option to prove we can control things and see if the fire and police department can make us feel safe. For the 50% of the residents who want to ban fireworks of all kinds we can put the issue on the ballot in November of 2005.

**Vice Mayor O’Connell** said she agrees with Councilmember Ibarra and would like to add the fact that 18 groups, with all their manpower, can pass out flyers telling our citizens if Safe and Sane fireworks get out of control again, we will lose them altogether.

**Mayor Franzella** said this issue goes beyond dollars and there is no amount of money that is worth raising to risk any amount of Public Safety. We have heard our Police and Fire Chief tell us they cannot adequately protect the community and that Safe and Sane fireworks are contributing to the problem, he cannot support any proposal to allow one more time. He wants to sleep without worrying about a child getting hurt or a senior being put out of their home. If we go to a ballot measure we should have a clear message that Yes means we sell fireworks and No means we don’t. An advisory measure will still divide the community. Outsiders coming to San Bruno are creating the problem not our citizens.

**Councilmember Ruane** said he had asked for reconsideration of the Council’s decision regarding the use and sale of Safe and Sane fireworks. The Citizens expect the Council to make a decision one way or another. The Safe and Sane fireworks have brought a bad element into this community. When the Fire and Police Chiefs tell us it will be difficult to protect us the Council should have voted unanimously to ban all fireworks. Now we are considering spending \$75,000 for a special election and we should be making the decisions ourselves. This is a very difficult decision but that is why I was elected. This is a safety issue and made a motion to ban the sale and use of Safe and Sane Fireworks. **M/S Ruane/Franzella** to ban the sale of all fireworks in the City of San Bruno. Motion failed with yes votes Ruane, Franzella and no vote Pallas, O’Connell, and Ibarra.

**Councilmember Pallas** said if the Police Department felt it was not safe why are they the largest seller of Safe and Sane fireworks among the 18 groups? Mayor Franzella said for the record it was the Police Officers Association and union not City employees selling the fireworks.

**Councilmember Pallas** said while this may have been the worst year for illegal fireworks being used; however, there were no fires or injuries from Safe and Sane fireworks. We should be arresting people using illegal fireworks. Veterans fought for democracy and we should be able to celebrate the July 4<sup>th</sup> event with fireworks. No matter what activity we do, there is some danger, but we need to learn how to protect ourselves from injury.

**Mayor Franzella** said that staff would have an ordinance in place in a few months to deal with the illegal fireworks in time to start enforcement next July 4<sup>th</sup>, 2005.

**Councilmember Pallas** made a motion to go to the ballot in November 2005 with an ordinance that permits the sale and use of Safe and Sane fireworks, which, includes all rules and regulations currently on record. Vice Mayor O’Connell seconded the motion.

**Mayor Franzella** clarified that a new ordinance would be approved prior to the November Election, which would include all rules and regulations and then be submitted to the voters for a simple yes or no vote.

**Interim City Attorney Ramiza** said if an ordinance is submitted to the voters it would not be necessary to enact or introduce prior to the vote.

**Mayor Franzella** said he wants an ordinance in effect on July 2005 so voters are not confused by the resolutions, minute orders and other documents regulating fireworks. This ordinance will incorporate all rules and regulations and make it clear as to what the voters are making a decision on.

**Vice Mayor O’Connell** said nothing in the current ordinance would change how we regulate the sale and use of Safe and Sane fireworks.

**Mayor Franzella** clarified that in order to be binding it must be an ordinance permitting the sale of Safe and Sane fireworks. If it fails the ordinance will be repealed.

**Interim City Attorney Ramiza** suggested that prior to the November 2005 general election the Council have a 1<sup>st</sup> and 2<sup>nd</sup> reading and adopt an ordinance allowing the use and sale of Safe and Sane fireworks. On the ballot in November 2005, ask the question if the citizens want to continue this ordinance currently in place, a simple yes or no.

**Councilmember Pallas withdrew his motion and Vice Mayor O’Connell withdrew her second of the motion.**

**Vice Mayor O’Connell** made a motion to have a ballot measure **regarding the sale of safe and sane fireworks on the November 2005 general election ballot. M/S O’Connell/Pallas** passed by majority vote of yes, Pallas, O’Connell, and Ibarra, and no Franzella and Ruane.

**Vice Mayor O’Connell** made a motion directing staff to prepare an all inclusive ordinance covering all rules and regulations on the use and sale of Safe and Sane fireworks to be brought back to the Council before the July 2005 fireworks seasons so the citizens can see how it works. **M/S O’Connell/Ibarra** passed by majority vote of yes O’Connell, Ibarra, and Pallas, and no Franzella, Ruane.

**Councilmember Ibarra** made a motion directing staff to work with the non-profit groups on the “Alternative Approach” (copy in Clerk’s office) where a surcharge of 7% would be added to the purchase of fireworks to underwrite the cost of putting additional police officers on duty leading up to the 4<sup>th</sup> of July event and on July 4, 2005, and putting into place an ordinance which will permit the police department to issue citations and fine individuals who use illegal fireworks. **M/S Ibarra/O’Connell** and passed by unanimous vote.

**At 9:00 p.m. Mayor Franzella called for a 10-minute recess.**

**Meeting was reconvened at 9:15 p.m.**

## **7. CALL FOR, PRESENTATION OF BIDS, and AWARD OF CONTRACTS:**

Recreation Services Director Mazzuca recommends the City Council adopt resolution authorizing the City Manager to execute a contract with J P Lynch Construction in the amount of \$30,077 for the **Senior Center Repair Project.**

Director Mazzuca gave the staff report and explained that only one bid was received for this project even though 100 contractors were contacted.

**Vice Mayor O'Connell** request a time line for the repairs to take place. Director Mazzuca responded that repairs would start within 30 days of award of contract.

**Councilmember Ibarra** asked if the damage actually went further into the building. Director Mazzuca said staff is not aware of any internal damage. The City Attorney is working with our risk carrier for full reimbursement of this cost from the party causing the damage.

**Councilmember Ruane** introduced the resolution for adoption with a roll call vote of all ayes.

## **8. COMMUNICATIONS: None**

## **9. STAFF REPORTS:**

- a. Public Works Director Munns recommends the City Council adopt resolution authorizing the City Manager to execute **agreements for Inter Agency Exchange** of gas tax funds for Surface Transportation Program Funds between the City of San Bruno and the City of Brisbane, Town of Colma, and the City of Half Moon Bay.

**Councilmember Ruane** introduced the resolution for adoption with a roll call vote of all ayes.

- b. Parks and Recreation Services Director Mazzuca recommends the City Council adopt resolution authorizing the submittal of an application for Roberti-Z'berg-Harris **Block Grant Program** allocation for 2002 State Park Bond Act funds.

Director Mazzuca gave the staff report and indicated that the amount of the grant would be \$109,262 and use of these funds would be to rehabilitate existing facilities. Funds must be used by 2010.

**Councilmember Ibarra** asked if the funds have been earmarked? Director Mazzuca said this would take place during the October 2004 Capital Improvement Fund hearings.

**Councilmember Ruane** introduced the resolution for adoption with a roll call vote of all ayes.

## **10. REPORT OF CITY ATTORNEY - RESOLUTIONS & ORDINANCES: None**

## **11. PUBLIC COMMENT ON ITEMS NOT ON AGENDA:**

Robert Riechel of 7<sup>th</sup> Avenue presented items to the City Clerk regarding the San Mateo County Mosquito District including new posters to help prevent the spread of the West Nile virus. He reported the spraying of Mills Field for mosquitoes. Also on behalf of the 7<sup>th</sup> Avenue residents he wished to thank the Council for sending a staff member to attend meetings with SFIA regarding flooding from the 7<sup>th</sup> Avenue ditch.

## **12. REPORT OF COMMISSIONS, BOARDS, & COMMITTEES:**

- a. City Clerk Simon requests Council **set date and time to interview applicants** to fill vacancies on committees, boards, and commissions, for 18 appointive terms, which will expire October 31, 2004.

**Mayor Franzella** set interviews for 6:00 p.m. September 28, 2004 and appointments to be made on October 12, 2004.

**Councilmember Ibarra** asked if this would be an open interview for anyone to apply? Mayor Franzella confirmed that those members with terms expiring will not be automatically re-appointed and that the Council will have an option to appoint any of the citizens applying.

**Councilmember Pallas** asked if those citizens seeking re-appointment need to be re-interviewed? Mayor Franzella replied that if they do not submit an application they would not be considered; however, if they have been interviewed or are currently serving they will not have to be re-interviewed.

**City Clerk Simon** said both Robert Schindler a Planning Commissioner, and Tom Cordes from the Personnel Board have not applied for re-appointment.

- b. Receive and approve the Gaming Club Council Ad Hoc Committee (Franzella/Ibarra) recommendation for **Artichoke Joe's Casino** request for continuation of the reduced number of authorized tables subject to City Tax and maintain the tax amount at \$1,285,200 for FY 2004-05.

**Scott Buschman** of Claremont Drive said if the City is giving a tax break we should see some documentation to justify this continued reduction.

**Ron Cox**, operations manager for Artichoke Joe's Casino (AJ's) replied that AJ's is under an ordinance that allows 51 tables and have chosen to run 38 tables and are not asking for a decrease in taxes. AJ's is in a fight for its life from the Indian Casinos. AJ's is very active in the community and is the single largest taxpayer in the City of San Bruno.

**Councilmember Pallas** said we are not giving AJ's a tax break and they are only being charged for the number of tables used.

**Mayor Franzella** clarified that this does require Council action since they are running a reduced level of tables.

**Councilmember Ibarra** said it is obvious that business is down due to BART and competition from a new Casino in Colma.

**M/S Pallas/Ruane** to approve the request and passed by unanimous vote.

### 13. NEW BUSINESS:

- a. Public Works Director Munns provided an update on completion of the **Water Well No. 20 Project** at Lions Field and proposed ribbon cutting ceremony.

Director Munns gave a complete update and power point presentation on the history and status of Well No. 20 located at Lions field. A test run is scheduled by September 30, 2004; October 1, 2004 will be water testing for a permit approval in order to put new well water into the City's distribution system. The ribbon cutting celebration and event should be scheduled after the testing is completed.

**Councilmember Ibarra** asked how the operation of this new well would affect the conjunctive use study currently taking place? Director Munns said the new well is outside of this agreement/study. All five wells will be ready for production at the beginning of the calendar year.

**Councilmember Pallas** said the well was to be completed by the end of last month. Director Munns said the refurbishing of the filter tanks has taken the Public Works department an extra month to complete.

**Mayor Franzella** confirmed that the tentative date for the ribbon-cutting event would be October 18, 2004.

At approximately 10:00 p.m. the meeting was recessed to the San Bruno Redevelopment Agency Meeting.

At approximately 10:20 p.m. the City Council meeting was reconvened in order to hold a closed session.

- b.** Closed Session regarding arbitration with **Siemens Building Technology**. (Gov't Code Section 54956.9. (a) pending litigation).

At 10:30 p.m. **Mayor Franzella** reconvened the City Council meeting and reported that settlement authority was given to the City Manager and there was no other business to report.

#### **14. ADJOURNMENT:**

**Mayor Franzella** requested a “Moment of Silence” to remember the 3<sup>rd</sup> anniversary of the 9-11 tragedy and in memory of all the victims and their families.

With no further business to transact, meeting adjourned to City Council Study Session on September 15, 2004 at 5:30 p.m. at City Hall 567 El Camino Real, to review and discuss phase II development activity for “The Crossing” project. Thereafter, meeting will adjourn to the next Regular Meeting of the City Council on September 28, 2004, at 7:00 pm, at the Senior Center, at 1555 Crystal Springs Road.

Respectfully submitted for approval at  
The regular City Council meeting of  
September 28, 2004

Ed Simon, City Clerk

Larry Franzella, Mayor